United Nations A/68/334

General Assembly

Distr.: General
19 August 2013

Original: English

Sixty-eighth session
Item 69 (a) of the provisional agenda*
Promotion and protection of human rights

Implementation of human rights instruments

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Chairs of the human rights treaty bodies on their twenty-fifth meeting, held in New York from 20 to 24 May 2013, pursuant to General Assembly resolution 57/202.

* A/68/150.

13-43139 (E) 130913

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Report of the Chairs of the human rights treaty bodies on their twenty-fifth meeting

Summary

The General Assembly, in its resolution 57/202, requested the Secretary-General to submit to the Assembly the reports of the Chairs of the human rights treaty bodies on their periodic meetings. The present document contains the report on the twenty-fifth meeting of the Chairs of the United Nations human rights treaty bodies, which was convened in New York from 20 to 24 May 2013. The meeting of the Chairs, convened annually pursuant to Assembly resolution 49/178, was held with a view to enhancing synergies with the intergovernmental process on treaty body strengthening. The Chairs considered the follow-up to the recommendations of the twenty-fourth meeting and reviewed developments, including the implementation by treaty bodies of recommendations included in the report of the United Nations High Commissioner for Human Rights on the strengthening of the treaty body system. In the context of the intergovernmental process on treaty body strengthening, the Chairs met with the co-facilitators, the Permanent Representatives to the United Nations of Iceland and Indonesia, Member States and groups, as well as civil society organizations. The Chairs further discussed the post-2015 development agenda and adopted a joint statement. The Chairs adopted recommendations, which are contained in section VI of the present report.

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I. Introduction

1. The twenty-fifth meeting of the Chairs of the human rights treaty bodies was held in New York from 20 to 24 May 2013. The meetings are convened annually pursuant to General Assembly resolution 49/178. The meeting was convened in New York with a view to enhancing synergies with the intergovernmental process on treaty body strengthening.

II. Organization of the meeting

2. The meeting was attended by the Chairs of the following bodies: Committee against Torture (Claudio Grossman); Human Rights Committee (Nigel Rodley); Committee on the Elimination of Discrimination against Women (Nicole Ameline); Committee on Enforced Disappearance (Emmanuel Decaux); Committee on the Elimination of Racial Discrimination (Alexei Avtonomov); Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (Abdelhamid El Jamri); Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Malcolm Evans); and Committee on the Rights of Persons with Disabilities (Maria Soledad Cisternas Reyes). In addition, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child were represented by their respective Vice-Chairs, Azzouz Kerdoun and Hatem Kotrane.

3. Ibrahim Salama, Director of the Human Rights Treaties Division of the Office of the United Nations High Commissioner for Human Rights (OHCHR), opened the meeting and welcomed the Chairs. He underscored the historical importance of the meeting, which had two major items on its agenda: treaty body strengthening and the post-2015 development agenda. He thanked the outgoing Chair, Abdelhamid El Jamri, for his leadership during the previous 12 months and his active role in the treaty body strengthening process. He noted the progress that had been made since the start of the intergovernmental process to ensure the inclusion of treaty body members in the process and emphasized that the collective wisdom of the treaty bodies was needed more than ever.

4. Mr. Salama then proceeded with item 1 of the provisional agenda, namely the election of officers, and made reference to the list provided by the secretariat of former Chairs and Vice-Chairs of the annual meetings. Based on the principle of rotation, the Chair of the Committee against Torture, Claudio Grossman, was elected Chair-Rapporteur of the twenty-fifth meeting and the Vice-Chair of the Subcommittee on Prevention of Torture, Malcolm Evans, was elected Vice-Chair. The rotation principle was reiterated, as was the need to ensure that new committees were duly incorporated through the vice-chairmanship. Consequently, the Subcommittee on Prevention of Torture would hold the Chair in 2014, while the Committee on Enforced Disappearance would enter the rotation as Vice-Chair. In 2015, the Committee on Enforced Disappearance would take over the Chair. At that point, all committees would have held the Chair at least once. Hence, it was resolved that in 2015, the Vice-Chair would be identified taking the year 2006 as starting point and that, from then on, the historical rotation would resume.

5. The Chairs adopted the agenda on the basis of the provisional agenda and annotations (HRI/MC/2013/1 and Corr.1).

6. The Chair of the twenty-fifth meeting, Mr. Grossman, then invited Mr. El Jamri, Chair of the twenty-fourth meeting, held in Addis Ababa, to inform participants of his activities. Mr. El Jamri spoke of the important developments that had occurred in the intergovernmental process and the contribution of treaty body experts hereto. He praised the co-facilitators for having consulted the treaty bodies in the course of the intergovernmental process and emphasized that, at the present meeting, the Chairs would have a unique opportunity to put forward a common vision, as the co-facilitators planned to conclude their report in the coming month. He welcomed the fact that the meeting was taking place in New York, as that would have a direct bearing on the intergovernmental process. He recalled that at their twenty-fourth meeting, the Chairs had reiterated their recommendation that the annual meeting of Chairs should be held every other year in a different region, in order to make the human rights treaty bodies more accessible to all stakeholders involved in the implementation process and to raise awareness of their work by strengthening linkages and synergies between international and regional human rights mechanisms and institutions.

7. Mr. El Jamri recalled that at the previous annual meeting, the Chairs had endorsed the guidelines on the independence and impartiality of members of the human rights treaty bodies ("the Addis Ababa guidelines") (A/67/222, annex I), which constituted the source of credibility and integrity of the system and should be adopted by all treaty bodies and reflected in their rules of procedure. So far, seven treaty bodies had amended their rules of procedures or annexed the guidelines to their rules. He added that the report of the United Nations High Commissioner for Human Rights on the strengthening of the human rights treaty bodies (A/66/860) had been useful in helping treaty bodies focus their reflections and noted that the proposals put forward in the report were the result of almost three years of consultations, in which treaty body experts had played a key role. Mr. El Jamri further expressed the view that the adoption of a comprehensive reporting calendar would increase the transparency of the system.

8. As regards the follow-up to the recommendations adopted by the Chairs at their twenty-fourth meeting, Mr. El Jamri described concrete initiatives which had been taken to improve cooperation between treaty bodies and African regional mechanisms. He noted in particular the participation of the President of the African Court on Human and Peoples' Rights in a session of the Committee on the Elimination of Racial Discrimination in August 2012 and the participation of a delegation of the African Committee of Experts on the Rights and Welfare of the Child in a session of the Committee on the Rights of the Child in June 2013. In order to strengthen the coherence between regional and international protection systems and to ensure consistency in jurisprudence, a seminar had been organized in October 2012 by the African Court on Human and Peoples' Rights, with the participation of subregional courts in Africa. In the spirit of the recommendations adopted by the Chairs at their twenty-fourth session, the Regional Office for East Africa of the Office of the United Nations High Commissioner for Human Rights in Addis Ababa was organizing a training in June 2013 for the bar associations from the subregion to strengthen their knowledge of and capacity to submit communications to both international and regional human rights mechanisms. Mr. El Jamri noted that strengthening the collaboration between the treaty bodies and African human rights mechanisms was a long-term project that required continued efforts from all sides. He congratulated the OHCHR Regional Office for East Africa

for its relentless efforts to build the capacity of the African human rights mechanisms, including its efforts to explore the possibility of an exchange programme that would allow for civil servants of African human rights mechanisms to be trained in relevant secretariats of the treaty bodies in Geneva.

9. The Chair presented the programme of work of the twenty-fifth annual meeting of the Chairs of the United Nations treaty bodies.

III. Follow-up to the recommendations of the twenty-fourth meeting of Chairs of the human rights treaty bodies, including implementation of recommendations contained in the report of the United Nations High Commissioner for Human Rights on the strengthening of the treaty bodies

10. The Chair recalled that one of the most important projects currently being undertaken by the annual meeting was to assist in harmonizing the working methods and rules of procedure of treaty bodies. In that regard, he drew the attention of the Chairs to three documents prepared by the Secretariat to facilitate the discussion of the agenda item, entitled as follows: "Overview of the human rights treaty body system and working methods related to the review of the States parties" (HRI/MC/2013/2 and Corr.1); "Other activities of the human rights treaty bodies and participation of stakeholders in the human rights treaty process" (HRI/MC/2013/3 and Corr.1); and "Report on the implementation by the treaty bodies of the recommendations contained in the report of the United Nations High Commissioner for Human Rights on the strengthening of the human rights treaty bodies" (HRI/MC/2013/4), which was prepared in accordance with the recommendation made at their twenty-fourth meeting (see A/67/222, para. 32 (c)) that the Secretariat should produce and regularly update a report on that subject for consideration by the meeting of Chairs in order to review progress and full implementation, bearing in mind that the strengthening process was by definition a continuing one. Reference was also made to the working document circulated by the co-facilitators entitled "The way forward".

11. The Chairs noted that the harmonization by the treaty bodies of their working methods was an ongoing process that had existed prior to issuance of the report of the United Nations High Commissioner and that the process would continue in the future. Each Chair then reported on developments within their respective committees, both in relation to harmonization of working methods and to progress and implementation related to the strengthening process. New developments included but were not limited to the use of modern technologies, including webcasting/captioning (Committee on the Rights of Persons with Disabilities), more committees adopting a simplified reporting procedure (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families), reducing the length of concluding observations (Committee on the Rights of the Child and Committee against Torture), and calendars adapted to individual committees (Committee on the Rights of Persons with Disabilities and Committee on Enforced Disappearance). The entry into force of new protocols was leading to a reorganization of working methods (Committee on Economic, Social and Cultural Rights) and a request for additional meeting time to meet the growing demand. The need to deal with reprisals was also discussed.

12. The Subcommittee on Prevention of Torture had amended its rules of procedure to bring them into line with the Addis Ababa guidelines. At a recent retreat, members of the Human Rights Committee had discussed that the guidelines reflected existing Committee guidelines and that they would envisage incorporating them into the rules of procedure. No amendment had been adopted by the Committee on the Elimination of Racial Discrimination as that Committee had indicated that it would like to conduct a comprehensive review of its rules of procedure, considering that the present rules had been adopted 40 years ago.

13. Concerning a comprehensive reporting calendar, the Chairs pointed out the need to have a shared, broad, common proposal that provided for a predictable, clear and transparent reporting system. They agreed that, if a calendar were adopted, its periodicity should not exceed five years. Moreover, for the calendar to work properly, it would have to be adequately resourced. On the issue of resources, the Chairs pointed out that measures were already being taken within committees to keep costs down by improving working methods. It was not clear how opt-in approaches would work as the calendar would not be predictable, and tailor-made reporting should be avoided. The review of States parties in the absence of a report was already included in a number of treaties and was used by committees, albeit sparingly, especially for States with long-overdue reports. The issue was lack of compliance by States parties, and often cooperation was forthcoming when the committees informed the States parties that they would be reviewed.

14. During the discussion on working methods, the Chairs also discussed how their respective committees conducted their interactive dialogue and the time devoted to each State party and to individual communications. The discussion revealed different practices in terms of the length of time for the consideration of a report, rapporteurs versus country task forces, or the clustering of provisions in the treaty. In that context, the issue of the use of parallel chambers was also discussed: its impact on the nature of the dialogue and the need for concluding observations to be adopted in plenary, even if the interactive dialogue was held in dual chambers. At its twenty-sixth session, the Chairs will discuss the possible alignment of the methodologies for the interactive dialogue in more depth.

IV. Treaty bodies and the intergovernmental process on the strengthening of the treaty bodies

A. Meeting with the co-facilitators of the intergovernmental process on the strengthening of the treaty bodies

15. On 20 and 24 May, meetings were organized between the Chairs and the Permanent Representatives to the United Nations of Iceland and Indonesia, the co-facilitators of the intergovernmental process on the strengthening of the treaty bodies. The Chairs extended a warm welcome to the co-facilitators and expressed their appreciation for the opportunity to exchange views, with the common goal of strengthening human rights protection worldwide by strengthening the treaty bodies. The Chairs then reviewed, issue by issue, the paper submitted by the co-facilitators entitled "The way forward", and shared their comments. The Chairs emphasized the principle that any savings should be reinvested in the treaty body system. The

co-facilitators expressed their gratitude for the opportunity to hear the views of the Chairs on their proposals.

16. The paper shared by the co-facilitators listed 31 issues and was divided into three parts: (a) general agreement on action based on background papers (to be further refined); (b) general agreement that no further action was needed within the intergovernmental process; and (c) issues requiring further discussion — proposals by the co-facilitators.

17. The proposal on webcasting and captioning was generally welcomed by the Chairs as it would ensure the integration of evolving technologies and contribute to increasing participation, including by persons with disabilities. The Chairs noted that the provision of United Nations webcasting could formalize the ad hoc arrangements currently in place. If meetings could be reliably indexed and searched further, for example through digital recording, the need for summary records could be reduced. The Chairs also welcomed the proposal for videoconferencing and highlighted the precedent set by the Committee on the Rights of the Child.

18. The co-facilitators noted that the adoption of the simplified reporting procedure ("list of issues prior to reporting") could become an important cost-saving measure. On the submission of common core documents, updates by way of an addendum could be considered. The Chairs found the proposal on annual reports to be acceptable since, although concluding observations could now be accessed electronically, other documents would still need to be reflected in the annual report. The Chairs also welcomed the proposal on strict adherence to page limits. The Chairs noted that the important issue of addressing the backlog and coordinated requests for additional meeting time, might create competition between the committees. The co-facilitators, however, stressed the need to avoid future ad hoc requests for additional resources.

19. On an aligned methodology for the constructive dialogue between States parties and treaty bodies, the Chairs highlighted that a uniform allocation of two meetings for the interactive dialogue with a State party might not be meaningful in all cases in view of the differences between States parties, and advocated a degree of flexibility in that regard. They also asked for flexibility on other proposals such as the issue of task forces and with respect to the various methods of work that had been developed by each committee on the basis of its experience, composition and precedents.

20. The Chairs expressed concern over reprisals and agreed with the recommendation of the co-facilitators. The Chairs added that there was a need for a collective response that would include measures of reparation, and suggested that each committee designate a focal point and that a joint body to address reprisals be explored.

21. The advantages and disadvantages of dual chambers were discussed. The Chairs noted that, while there were clear benefits in terms of saving time and money, dual chambers would be difficult for smaller committees, such as the Committee against Torture which had only 10 members and for which it could be difficult, if not impossible, to find a balanced composition for each chamber. The question was also raised as to how treaty body members who did not participate in the interactive dialogue could properly participate in adopting concluding observations.

22. The Chairs expressed strong support for capacity-building efforts, both for reporting and for the implementation of concluding observations. They underscored, however, that any cost savings from the treaty bodies should be entirely reinvested in the treaty body system in order to allow the system to address the challenges it faced. The co-facilitators explained that many delegations attached great importance to capacity-building and that it would be a critical element of any final agreement. The Chairs agreed that additional resources should be committed to building the capacity of States parties to report and to implement, but that such efforts should not be made at the expense of an already underresourced system.

23. The Chairs agreed with the co-facilitators on the need for more predictability, which a calendar could provide. However, they cautioned that the nimble and "opt-in" calendar proposals might contradict the treaties by making a legal obligation optional and further create a "two-speed" reporting system. The co-facilitators noted that the proposal had just been shared with Member States so it was too early to gauge their reaction. On the five-year comprehensive reporting calendar proposal in the report of the United Nations High Commissioner, the co-facilitators stated that a number of delegations had expressed concern about the possibility of a review in the absence of a report. The Chairs responded that State reviews in the absence of a report were already a current practice in several committees.

24. In respect of the Addis Ababa guidelines, the Chairs pointed out that the guidelines had only recently been adopted and that it was therefore too early to review them. They added that the guidelines affirmed what already existed and that only the treaty bodies were responsible for implementing and evaluating them as part of their internal rules and regulations. On the subject of the annual meeting of the Chairs, the Chairs informed the co-facilitators of their recommendation, made at the previous annual meeting, that the meetings be decentralized and alternate between Geneva and the field. They also noted that it would be useful for the annual meeting to be held in New York every few years in order to allow for greater interaction with Member States.

25. In conclusion, both the co-facilitators and the Chairs expressed great satisfaction with the exchange. The co-facilitators hoped to finalize the process by mid-June, with a report to the President of the General Assembly, who in turn would submit the report to the Assembly. They also expected that some proposals would be staggered in their implementation, namely, short-, mid- and long-term proposals. The co-facilitators conveyed a sense of urgency in achieving an outcome despite divergent views.

B. Informal consultation with States

26. On 21 May 2013, the Chairs held an informal consultation with States, as well as informal exchanges with groups of Member States in the following days. At the opening of the informal consultation with States, the Chair of the annual meeting made a statement on behalf of all the Chairs. He welcomed the open dialogue between the co-facilitators and the treaty bodies, and recognized the former's role in facilitating the participation of several treaty body members in the informal consultations of the intergovernmental process, including by videoconference from New York and through their visit to Geneva in April 2013. The Chair stated that the success of the treaty body strengthening process would be measured by its ability to

offer more protection to rights holders than was currently the case. He then gave an overview of the unprecedented challenges which confronted the human rights treaty body system, such as the immense backlog in reviewing States parties' reports and communications and the high degree of non-compliance by States parties with their reporting obligations, which constituted a threat to the integrity, coherence and effectiveness of the system, as did the significant delay between the submission of reports and their review. The Chair further criticized the severe underresourcing of the system, which forced it to rely to an unsafe degree on extrabudgetary resources. The Chair further expressed the deep concern of the treaty body Chairs over cases of reprisals, including against human rights defenders who provided information to the treaty bodies, and called for greater access for civil society organizations from all States parties to the treaty bodies.

27. The Chair then proceeded to enumerate the principles and benchmarks that they considered to be fundamental in relation to the treaty body strengthening process. As the principles were rooted in human rights treaty law, as elaborated and ratified by States, the Chairs expected them to be faithfully reflected in the process and outcome of the treaty body strengthening process. The first principle was that any outcome of the intergovernmental process should strengthen the human rights protection that the treaty body system offered. The second principle was the independence and impartiality of the treaty bodies and their members. At their 2012 annual meeting, the Chairs had endorsed the Addis Ababa guidelines, which interpreted the concepts of independence and impartiality for treaty body members.

28. The Chair added that the guidelines were based on pre-existing guidelines of the Human Rights Committee, relevant rules of procedure and decisions of other treaty bodies relating to independence. Less than a year later, the Addis Ababa guidelines had been incorporated, in one way or another, in the rules of procedure and practices of all the committees, as documented in the report (HRI/MC/2013/4) on the implementation by the treaty bodies of the recommendations contained in the report of the High Commissioner. That had given the Addis Ababa guidelines tremendous weight. Third, any outcome of the intergovernmental process should be comprehensive and sustainable, meaning that the treaty bodies should be equipped with the proper material and human resources from the regular budget to adequately carry out their responsibilities under the respective treaties. The fourth principle was the principle of efficiency and needed to be tested in the light of the goal of the system to respect, protect and promote human rights. In that context, all cost-saving measures needed to be fully reinvested in a system that suffered dramatically from a lack of resources. Valuable capacity-building initiatives should therefore not be undertaken at the expense of the scarce resources of the treaty bodies, but additional resources should be made available for that purpose. Fifth, the intergovernmental process provided Member States and treaty bodies with a unique opportunity to modernize the work of the latter by allowing them to take full advantage of technological developments while at the same time making it universally accessible for persons with disabilities, thereby honouring the principle of reasonable accommodation.

29. The Chair further highlighted that the strengthening process was by definition a multi-stakeholder process in which both States and treaty bodies had specific competencies. The Chairs very much valued the dialogue in each committee as well as the informal consultation that was a permanent feature of the annual meeting of Chairs. The treaties, however, provided for the rules of procedure and the working

methods of the treaty bodies to be determined by the treaty bodies themselves. The Chair highlighted that the treaty bodies were committed to the continued harmonization of their working methods, and in this context welcomed the report of the High Commissioner on treaty body strengthening. He concluded by stating that the treaty bodies had already invested greatly in developing possible solutions for a crisis that, if not attended to, could seriously weaken a system already under stress.

30. In their comments, some Member States echoed the view expressed by the Chairs that the intergovernmental process should result in a comprehensive and concrete response to existing challenges and should also lead to increased compliance by States with their legal reporting obligations. Others reiterated that any proposals for change should strengthen and not weaken the system. Many delegates expressed respect for the independence and autonomy of the treaty bodies and applauded their self-regulation by adopting the Addis Ababa guidelines. Some participants asked what measures had been taken by the treaty bodies to implement the guidelines and whether the guidelines would be subject to review by the committees, in the light of best practices and the views of stakeholders. The Chairs were also asked how they assessed the objectivity of information provided by civil society and what initiatives were being undertaken by the treaty bodies themselves to harmonize their working methods and ensure efficiencies. The views of the Chairs were further solicited with respect to the possibility of a reporting calendar, the implications for treaty body experts of increased meeting time, as well as ways and means to avoid ad hoc requests for additional resources from individual committees.

31. In the ensuing dialogue, the Chairs emphasized the need to give the Addis Ababa guidelines, which were a valuable interpretive tool, time to be implemented and used before resolving to review them. The Chairs suggested the possibility of a joint treaty body working group to look into the issue of reprisals. On the reliability of sources, treaty bodies pointed to their practice of cross-referencing various sources, including information from other human rights mechanisms and from United Nations entities. The diversity of sources allowed treaty body experts to evaluate the information received. The Chairs provided examples of harmonized working methods and suggested areas where more could be done. On the issue of languages, the Chairs underlined the importance of maintaining diversity. On improving efficiencies through cost-saving measures, the Chairs emphasized that any cost savings should be redirected to the treaty body system. With respect to lack of compliance with reporting obligations, the Chairs noted that, in general, lack of reporting was not only a matter of capacity, but also of political will and that in the absence of additional resources and structural solutions, the current system could not in any case cope with increased State compliance with their reporting obligations. Concerning a calendar, some Chairs stated that a five-year periodicity for reporting would be the maximum acceptable limit. They expressed concern over the fact that a number of proposals that were circulating were allowing States the possibility of reporting as they wished, and stressed that that contradicted voluntarily contracted legal obligations. Chairs acknowledged the advantages of a comprehensive request for additional resources, but asked who the arbiter would be as to the distribution of any additional resources received between the different treaty bodies; they warned against possible competition, and even conflict. Objective parameters would therefore have to be drawn up including the status of ratifications and the existing backlog.

C. Informal consultations with civil society organizations and the International Coordinating Committee of national human rights institutions

32. On 22 May 2013, the Chairs held informal consultations with civil society organizations and the International Coordinating Committee of national human rights institutions. A joint statement by 14 civil society organizations highlighted a number of priority areas for consideration by the Chairs. It was stated that the intergovernmental process provided a key opportunity for reminding States of their obligation to fully and effectively implement the recommendations and decisions adopted by the treaty bodies, to ratify all human rights treaties and their optional protocols, and to remove reservations that limited the scope of the treaties. With respect to working methods, the civil society organizations, in their joint statement, welcomed the alignment by the treaty bodies of their working methods. In the light of increased reprisals against civil society organizations and human rights defenders, they called upon the treaty bodies to develop common guidelines on addressing reprisals and to appoint focal points as soon as possible with a broad and clear mandate to take all possible steps to prevent and swiftly address reprisals. Linked to this, they stressed the importance for treaty bodies to continue to organize their formal meetings with civil society organizations related to State reviews in private. On the issue of resources, the civil society organizations noted that the current challenges facing the treaty body system were the result of years of underfunding, which had resulted in a large backlog of reports and communications. Lastly, the civil society organizations called on the Chairs to ensure that the Addis Ababa guidelines would be strictly adhered to by all treaty body members.

33. Other participants spoke about the need to strengthen human rights protection on the ground and also cautioned against extending periodicity beyond the reporting period contained in the treaties. Additional points made included the need for more staff to support the Subcommittee on Prevention of Torture and the importance for treaty bodies to continue their work on general comments and recommendations, which expressed and formalized committee practice on thematic areas as distilled from numerous concluding observations. It was highlighted that the international human rights treaty system is for many individuals and groups the only forum in which they could claim their human rights. Similarly, the treaty monitoring system offered a measure of State accountability for human rights implementation that in some cases was the only accountability available. It was argued that it was therefore essential that treaty bodies should continue to review States parties in the absence of a report. Several participants further expressed the view that capacity-building assistance should only be made available to States parties that committed to promptly complying with their reporting obligations. On the question of a calendar, some civil society organizations suggested predictability, transparency, compliance with reporting obligations and the review of all States parties without exception as principles that should underpin any models put forward in the course of the intergovernmental process.

34. The Chairs welcomed the valuable contribution of civil society organizations to the work of the treaty bodies, whether through submissions, inputs, hearings or briefings. They called on those organizations to continue to actively participate in State reviews as well as in the implementation of recommendations emanating from the treaty bodies.

V. Treaty bodies and the post-2015 development agenda

35. On 24 May 2013, Craig Mokhiber, Chief, Development and Economic and Social Issues Branch, OHCHR, gave a presentation on the post-2015 development agenda, for which preparations were taking place. He stated that treaty bodies could provide a strong accountability framework in the post-2015 framework as, in the State review, they could consider State compliance with the post-2015 commitments that would eventually be adopted.

36. He explained that when the Millennium Development Goals were drafted, drafters vetoed the inclusion of human rights, as it was perceived to be a vague and amorphous concept and not a concrete, measurable framework. OHCHR, as part of the United Nations community, had nevertheless engaged on the Millennium Development Goals in spite of the absence of a rights-based approach to important issues such as health, education and poverty. The Goals were a narrow set of socioeconomic indicators that did not address the imperative of inequality and with a weak accountability framework. Goal 8 on "global partnerships for development" was never designed to be implemented.

37. The post-2015 agenda gave the international community the opportunity to correct itself by replacing the framework of the Millennium Development Goals with goals or objectives that had a normative base and a strong accountability framework. OHCHR had facilitated one of the global thematic consultations and been actively involved in the others. Since the start of the post-2015 process, OHCHR had relentlessly advocated for human rights to be at the centre of the new development agenda. According to the human rights-based approach, the sustainable development goals must be built around a framework of international law, including human rights law. Human rights principles such as equality, meaningful participation and accountability had to be stressed and the framework to be adopted should address freedom from fear as much as freedom from want. The framework also needed to take into account the environment and address weak goal 8 and the international side of the development agenda in accordance with the right to development. Moreover, the post-2015 framework should also consider the private sector as agents of development, and take into account the accountability of those non-State actors and the need for redress of human rights violations.

38. In the ensuing discussion, the Chairs pointed out that the role of women as regards the Millennium Development Goals and the post-2015 development agenda was a crucial one. There was also some merit in looking at treaty body strengthening in the context of the post-2015 development agenda, which could lead to providing states with budgetary assistance so they could implement their obligations. The issue of how human rights could be made measurable was also brought up, as was the need to apply human rights indicators. The Chairs also looked at the huge disparities in reaching the Millennium Development Goals in sub-Saharan Africa. The need to make the link with sustainable development was also stressed. One question was how the issue of corruption was being addressed, since without good governance it would be difficult to achieve the goals in the long term. The significance of the broader framework in which freedom from torture must be framed was also brought up. A broader range of factors had to be addressed, especially the issue of prevention against torture. On accountability, the Chairs emphasized that the treaty bodies had an instrumental role to play that was not limited to political accountability, but also encompassed powers of enforcement.

39. In response, Mr. Mokhiber called on the treaty bodies to rally around integrating human rights into outcome documents through a joint statement. On the role of women, there should be clear gender benchmarks. Resources were a key issue, but they were often used as a distraction as it was clearly not a question of a lack of money when military spending or spending on bank bailouts was in the trillions. Therefore, scarcity of resources should not be used as a pretext for the failure to make human rights a priority. Reference was also made to the OHCHR publication on human rights indicators and its recently launched report entitled "Who will be accountable?: human rights and the post-2015 development agenda". In conclusion, the key challenge was to ensure that the post-2015 framework would be articulated in human rights terms.

VI. Decisions and recommendations

40. At their twenty-fifth meeting, the Chairs of the United Nations human rights treaty bodies adopted the following recommendations:

Intergovernmental process on treaty body strengthening

41. The Chairs stated that the following principles should be taken into account in the intergovernmental process on treaty body strengthening:

(a) The outcome of the intergovernmental process should strengthen the human rights protection that the treaty body system offers and intensify the scrutiny of implementation of obligations as provided by the treaty body system;

(b) The independence of treaty body members is the source of the credibility and integrity of the system and guarantees the impartial treatment of States parties. The Addis Ababa guidelines, which were devised and endorsed at the twenty-fourth meeting of the Chairs of the human rights treaty bodies in 2012, enshrine and operationalize these principles;

(c) The outcome of the intergovernmental process should address the challenges faced by the treaty body system in a comprehensive and sustainable manner;

(d) All cost-saving and other measures to improve the efficiency of the treaty bodies must be reinvested in the treaty body system and, through additional resources, the treaty bodies should be equipped with the proper material and human resources from the regular budget to adequately carry out their responsibilities under the respective treaties;

(e) The work of the treaty bodies should be modernized so as to take full advantage of technological developments, while at the same time making it universally accessible for persons with disabilities, thereby honouring the principle of reasonable accommodation.

42. The Chairs valued the extensive consultations with Member States and groups of States, as well as with the co-facilitators and civil society organizations.

43. The Chairs welcomed the report of the United Nations High Commissioner on the strengthening of the treaty bodies. They received the proposal for a comprehensive reporting calendar in a positive spirit and endorsed in principle a common reporting calendar which reflects and reinforces the treaty-based reporting

commitments of States parties. As a result of the discussions around the comprehensive reporting calendar, a number of proposals for implementation modalities had been put forward by Member States. While the Chairs appreciated that the advantages and disadvantages of various proposals were still under discussion and that some of the proposals were still evolving, they reiterated that any structured calendar of reporting and consideration should meet the following criteria:

(a) Any structural solution should eliminate the unequal treatment of States parties by operating on the basis of universal compliance with reporting obligations;

(b) Any structured system put in place should be regular and predictable, leading to efficient utilization of resources, and facilitate advance planning for all parties concerned;

(c) Any scheduling of reports should follow as closely as possible the periodicity in the treaties, so as not to prejudice the legal reporting obligations of States parties;

(d) Non-reporting should be an exception and not the norm; any structured calendar should not be permissive as regards non-reporting;

(e) Eliminate backlogs and ad hoc requests for meeting time to the General Assembly.

Independence and impartiality of treaty body members

44. The majority of the committees have already completed action on the guidelines on the independence and impartiality of treaty body members ("the Addis Ababa guidelines") endorsed by the twenty-fourth annual meeting of Chairs by incorporating them in their respective rules of procedure. The other committees are in the process of considering the guidelines. The Chairs will continue to exchange views on the practice that will develop over time regarding those recently adopted guidelines.

Harmonization of working methods

45. The treaty bodies are committed to continuing to align their working methods. It is recommended that, at the next meeting of the Chairs of the treaty bodies, the following issues be discussed:

(a) The possibility of a common format for concluding observations (titles, length, number of recommendations);

(b) The possible alignment of the methodology for the interactive dialogue (e.g., written guidelines, country task forces or rapporteurs, clustering of questions by themes, equitable allocation of time between treaty body members and the State party, follow-up given to previous concluding observations and significant developments).

Implementation of the recommendations contained in the report of the United Nations High Commissioner for Human Rights on the strengthening of the treaty bodies

46. The Chairs also affirmed their commitment to promote positive consideration of the recommendations contained in the report of the United Nations High

Commissioner. In that context, the Chairs stressed that such implementation should be undertaken in coordination with the other treaty bodies and recommended that each treaty body should keep the meeting of the Chairs informed on an annual basis about the progress made. The Chairs further recommended that the Secretariat should produce and regularly update an implementation report in that respect for consideration by the meeting of the Chairs in order to review progress, bearing in mind that the strengthening process was by definition a continuing one. To that effect, the meeting decided to include the issue of treaty body strengthening, and in particular the consideration of the recommendations contained in the report of the High Commissioner, on the agenda of the next meeting.

Overdue and non-reporting by States parties

47. The Chairs expressed deep concern over late reporting and non-reporting by a number of States parties to international human rights treaties. Based on the annual reports of the respective treaty bodies, the meeting recommended that the Secretariat should provide regular updates on late reporting and non-reporting and place them on the OHCHR website. The item will be included as a standing item on the agenda of the meeting, and the status of late reporting and non-reporting will be included in future meeting reports.

Enhancement of the meetings of the Chairs of the human rights treaty bodies

48. The Chairs reaffirmed their previously recognized roles to facilitate representation and coordinate common activities, including matters such as the consideration and adoption of joint statements, while respecting the autonomy and specificity of each treaty body. The Chairs also reiterated the recommendation that they should adopt measures on working methods and procedural matters that were common across the treaty body system and had previously been discussed within each committee, and that such measures should be implemented by all the treaty bodies unless a committee subsequently dissociated itself from them.

Treaty bodies and the post-2015 development agenda

49. After consulting with stakeholders, the Chairs considered and adopted a joint statement on the post-2015 development agenda related to the need to incorporate human rights in that agenda (annex).

Agenda for the twenty-sixth meeting of the Chairs

50. The Chairs decided that their next meeting would focus on the issue of strengthening the treaty bodies; late reporting and non-reporting of States parties; and harmonization of working methods.

Chair-Rapporteur and Vice-Chair-Rapporteur of the twenty-sixth meeting

51. The Chairs decided that, in accordance with the principle of rotation and inclusion of new committees in the list, the Chair-Rapporteur of the twenty-sixth meeting in 2014 will be Malcolm Evans, Chair of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Vice-Chair will be Emmanuel Decaux, Chair of the Committee on Enforced Disappearances. In 2015, the rotation will again begin with 2006 as the starting point.

Annex

Joint statement of the Chairs of the United Nations treaty bodies on the post-2015 development agenda

The Chairs of the 10 United Nations human rights treaty bodies,[a] welcome the current reflection on the post-2015 development agenda to follow the Millennium Development Goals, particularly in the context of the forthcoming General Assembly special event on the Millennium Development Goals as well as the work of the Open Working Group on Sustainable Development Goals in follow-up to the United Nations Conference on Sustainable Development held in Rio de Janeiro, Brazil, from 20 to 22 June 2012.

International human rights law provides standards covering a range of issues from health, education, housing and labour standards to political participation, fundamental freedoms and personal security, administration of justice and non-discrimination. These issues are fundamentally linked to development. As such, the Chairs highlight the critical link between development and human rights, including the rights of the most vulnerable groups. We also underline that human beings are at the centre of concerns for sustainable development and have a vital role to play in environmental and natural resource governance.

The Chairs encourage the international community to recognize this link and recognize that development goals, in order to be sustainable, have to be grounded in human rights, justice and the rule of law. By "human rights", the Chairs mean the full range of civil, political, economic, social and cultural rights. In particular, this human rights-development linkage should be grounded in the right to development as a key parameter since it "finds clear resonance in various human rights treaty provisions, that emphasize the multifaceted, multidimensional and complex nature of development processes and the need for development to be inclusive, equitable and sustainable."[b] In terms of the international environment in which development goals are framed and their implementation supported, "the right to development, through the systematic application of the core principles of equality, non-discrimination, participation, transparency and accountability, at both the national and international levels, establishes a specific framework within which the duty to provide international cooperation and assistance has to be implemented."[c] Special attention must be paid to tackling broader governance issues such as corruption and enhancing the right to information and adequate remedies in this regard.

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[a] Human Rights Committee; Committee on Economic, Social and Cultural Rights; Committee on the Elimination of Racial Discrimination; Committee on the Elimination of Discrimination against Women; Committee against Torture; Committee on the Rights of the Child; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; Committee on the Rights of Persons with Disabilities; Subcommittee on Prevention of Torture; and Committee on Enforced Disappearance.

[b] See joint statement of the Chairs of the United Nations treaty bodies: twenty-fifth anniversary of the Declaration on the Right to Development, July 2011. Available from www2.ohchr.org.

[c] Statement on the importance and relevance of the right to development, adopted on the occasion of the twenty-fifth anniversary of the Declaration on the Right to Development, adopted by the Committee on Economic, Social and Cultural Rights at its forty-sixty session, (E/C.12/2011/2), para. 6.

In articulating a post-2015 development agenda, the need to promote the use of human rights indicators is crucial to measuring the success of development goals.

The current Millennium Development Goals have made some useful contributions to development. Yet, they did not make the link with human rights, with important consequences.

The goal of universal primary education did not explicitly refer to the human rights requirement that primary education be free and without discrimination, risking the exclusion of the poor, girls, migrants, indigenous persons and persons with disabilities, among others.

The goal of gender equality did not ensure the elimination of discrimination against women and equality between women and men, which should be addressed as a global priority in the future agenda, as should respect for the right to liberty and security of the person, and freedom from torture and other cruel, inhuman or degrading treatment.

Some human rights that are fundamentally linked to development and poverty eradication were omitted or underprioritized, such as freedom of expression and of association, including labour rights and decent work, and the right to water and sanitation, so important for the right to life and to meet health-related goals.

Insufficient attention to the human rights principle of accountability and access to justice has undermined incentives to reach goals and foreclosed any remedy for people whose rights were bypassed or abused in the development process.

In a joint statement of the Chairs of the United Nations human rights treaty bodies on the occasion of the United Nations Millennium Summit and the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals (20-22 September 2010), it was clearly pointed out that, with regard to the Millennium Development Goals, "their realization would still fall short of what human rights treaties require, as treaties call for the realization of human rights for all, which goes beyond the reaching of quantified targets". Ultimately, the failure to make an explicit link to human rights masked inequalities and frustrated advances. Indeed, in several of the celebrated development "success" stories of the previous decade, underlying repression, deprivation and inequality led to violent mass protest and the rolling back of any development gains.

The Chairs therefore welcome the recognition by States in the outcome document of the United Nations Conference on Sustainable Development of the importance and utility of future sustainable development goals being consistent with international law, including international human rights law. This lays the ground for developing a post-2015 development agenda that should deliver freedom from fear and want, in keeping with the legal obligations that States have voluntarily undertaken.

The Chairs call upon the international community to adopt a post-2015 development agenda that:

(a) Integrates human rights obligations within the development goals with specific human rights indicators to allow for an objective assessment of progress towards sustainable development grounded in human rights;

(b) Engages national and international human rights mechanisms, including the treaty bodies and special procedures of the Human Rights Council, in development processes as accountability mechanisms and as sources of significant human rights-related information that can assess progress in meeting development goals and serve as early warning mechanisms where problems, otherwise hidden, might be present.

In particular, the Chairs call upon the international community to strengthen accountability of all the actors responsible for development. By linking development goals to legal obligations of States under human rights treaties, development actors are more easily held accountable and their responsibilities are better defined. This should provide additional motivation to move forward nationally on the promises made at conferences globally.

The Chairs maintain that accountability can only be ensured if the overall treaty body system is strengthened, through focus on better reporting behaviour by States parties and better compliance with the recommendations aimed at States. In this context, capacity-building for States to discharge their conventional obligations is a common prerequisite to achieve the implementation of human rights norms as well as to implement the post-2015 development agenda. There is a need to continue to encourage periodic reporting by States parties and to reinforce the centrality of human rights in governance and national development planning.

For their part, the Chairs commit to continuing to be engaged in the reflection on the post-2015 development agenda. In their own work, the Chairs will encourage their committees to consider the impact of development goals on the rights contained in their respective treaties. The Chairs will also encourage the committees to draw on development data and reports, as appropriate, in their constructive dialogue with States parties.

The Chairs will continue to follow with interest the elaboration of the post-2015 development agenda as active partners in achieving sustainable development goals that respect human rights and, as emphasized in the 2010 statement by the Chairs on the occasion of the Millennium Summit, the realization of any development goals "should be an important step on the longer, and continuous, road towards the full and effective realization of all human rights for all."

May 2013